

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT VARDANEGA,

No. C 12-04112 WHA

Plaintiff,

**ORDER ADOPTING REPORT AND
RECOMMENDATION AND
REMANDING**

v.

NANCY WALTER and DAN FEASTER,

Defendants.


The Court has received Magistrate Judge Nandor Vadas' report and recommendation in the above-entitled action, which was removed from the Superior Court of California, County of Mendocino. After reviewing the notice of removal and the complaint, the magistrate judge found that federal subject-matter jurisdiction was lacking. The magistrate judge found there was no federal-question jurisdiction where the sole claim asserted in the complaint is one for unlawful detainer. Contrary to defendants' contention, the Protecting Tenants At Foreclosure Act does not require the application of the artful pleading doctrine to create federal-question jurisdiction where it is lacking on the face of the complaint. The magistrate judge also found that diversity jurisdiction was lacking because the complaint seeks less than \$10,000 and all parties reside in California. Accordingly, the magistrate judge recommended that the action be remanded.

The parties have had more than fourteen days to file written objections to the report and recommendation. On October 4, pro se defendants filed an objection, disagreeing with the report and recommendations on the ground that the PTFA preempts state law, and thus establishes federal-question jurisdiction over eviction actions involving tenants. No objections from plaintiff have been received.

1 Having reviewed the recommendations *de novo*, the Court hereby **ACCEPTS AND ADOPTS**
2 Magistrate Judge Vadas' report and recommendation in full. Accordingly, the action is hereby
3 **REMANDED TO THE SUPERIOR COURT OF CALIFORNIA, COUNTY OF MENDOCINO.** The Clerk shall
4 close the file.

5
6 **IT IS SO ORDERED.**

7
8 Dated: October 11, 2012.



WILLIAM ALSUP
UNITED STATES DISTRICT JUDGE